

## REMARKS

Reconsideration and the timely allowance of the pending claims, in view of the following remarks, are respectfully requested.

In the Office Action dated July 13, 2006, the Examiner rejected claims 2, 5-6, 8, and 24-25, under 35 U.S.C. §112, ¶2, as allegedly containing indefinite terms; rejected claims 2, 5-6, 8, and 24-25, under 35 U.S.C. §103(a), as allegedly being unpatentable over Maruo '090 (U.S. Patent No. 5,181,090) in view of Shell '956 (U.S. Patent No. 5,429,956); and rejected claim 10, under 35 U.S.C. §102(e), as allegedly being anticipate by Kim '284 (U.S. Patent No. 6,472,284).

By this Amendment, claims 2 and 10 have been amended to provide a clearer presentation of the claimed subject matter. Applicants submit that no new matter has been introduced. Applicants further submit that, by virtue of the changes to claim 2, the informality has been corrected and Applicants respectfully request the immediate withdrawal of the §112, ¶2 rejections of claims 2, 5-6, 8, and 24-25.

Applicants respectfully traverse the rejections, under 35 U.S.C. §102(e) and §103(a), for the following reasons:

### I. Prior Art Rejections Under §102(e) and §103(a).

As indicated above, amended claim 2 positively recites, *inter alia*, that the first gate side wall insulating film and the second insulating film portion being formed of a same layer. Such features are amply supported by the embodiments disclosed in the written description. (See, e.g., Original Specification: page 26, line 27 to page 27, line 7; and FIG. 7C). For example, the disclosed embodiments provide that the surfaces of the semiconductor substrate 201 and the gate dummy pattern 214 are thermally oxidized so as to form the first gate side wall insulating film 215 on the surface of the gate dummy pattern 214. This forms a bird's beak region in the edge portion on the bottom surface of the gate dummy pattern 214 so as to form the second insulating film portion 208. As such, the first gate side wall insulating film 215 and the second insulating film portion 208 are formed of *the same layer*.

In contrast to the Examiner's assertions, none of the applied references, whether taken alone or in reasonable combination, teach each and every element of claim 2, including the

features identified above. In particular, the primary reference, Maruo '090 specifically teaches the formation of second insulating film portion 15 (*see, e.g., Maruo '090*: FIG. 3(e)) and the formation of the first gate side wall insulating film 23 (*see, e.g., Maruo '090*: FIG. 3(j), 3(k)). However, in direct contrast to the recitations of claim 2, the configuration of Maruo '090 clearly shows that the first gate side wall insulating film 23 and the second insulating film portion 14 are formed of a different layer - and not formed of *the same layer*, as required by claim 2.

Applicants submit that none of the remaining asserted references are incapable of curing the deficiencies of Maruo '090 identified above. In particular, there is nothing in Shell '956 that remotely teaches or suggests that the first gate side wall insulating film and the second insulating film portion are formed of the same layer, as required by claim 2.

With respect to the Kim '284 reference, much like Maruo '090, Kim '284 discloses the formation of second insulating film portion 301b (*see, e.g., Kim '284*: FIG. 2K) as well as the formation of first gate side wall insulating film 313 (*see, e.g., Kim '284*: FIG. 2L). There is, however, nothing in Kim '284 that teaches or suggests that the first gate side wall insulating film and the second insulating film portion are formed of *the same layer*, as required by claim 2.

For at least these reasons, Applicants submit that none of the asserted references, whether taken alone or in reasonable combination, teach each and every element of claim 2. In addition, because claims 5-6, 8, and 24-25 depend directly from claim 2, claims 5-6, 8, and 24-25 are patentable at least by virtue of dependency as well as for their additional recitations. Accordingly, the immediate withdrawal of the prior art rejection of claims 2, 5-6, 8, and 24-25 is respectfully requested.

Furthermore, because independent claim 10 recites similar patentable features as noted with respect to claim 2, claim 10 is patentable for at least the reasons presented with respect to claim 2. As such the immediate withdrawal of the prior art rejections of claim 2 is respectfully requested.

II. Conclusion.

All matters having been addressed and in view of the foregoing, Applicants respectfully request the entry of this Amendment, the Examiner's reconsideration of this application, and the immediate allowance of all pending claims.

Applicant's Counsel remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter. If any point remains in issue in which the Examiner feels may be best resolved through a personal or telephone interview, please contact the Undersigned at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account Number 03-3975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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